

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

IN RE: ETHICON INC. PELVIC  
REPAIR SYSTEM PRODUCTS LIABILITY  
LITIGATION

MDL NO. 2327

**UNOPPOSED MOTION FOR QUALIFIED PROTECTIVE ORDER  
CONCERNING PRODUCTION OF CERTAIN INFORMATION MAINTAINED  
BY GOVERNMENT THIRD-PARTY PAYORS**

Smith Stag, LLC (“Smith Stag”), as counsel for certain plaintiffs in this MDL 2327, file this Unopposed Motion for entry of a Qualified Protective Order Concerning the Production of Certain Information Maintained by Third Party Payors, as set forth in the proposed order attached hereto as Exhibit A.

Plaintiffs’ Counsel and Defendant Ethicon, Inc. and certain related entities (“Ethicon”) have entered into a Confidential Master Settlement Agreement (the “MSA”) to resolve the claims related to the implantation of Ethicon’s Pelvic Repair Products as defined in the MSA. Pursuant to the MSA, Smith Stag has retained the following Lien Resolution Administrators: Providio Lien Counsel (“Providio”), a division of Providio MediSolutions. Under the provisions of the MSA, Providio is responsible for identifying and resolving all liens that have been or may be asserted by Federal Medicare (part A and Part B), each State and/or Territory Medicaid Agency, the U.S. Department of Veterans’ Affairs, the U.S. Department of Defense, TRICARE, and Indian Health Services (collectively “Governmental Third-Party Payors”) asserted against settlement payments, which are related to the implantation of any of Ethicon’s Pelvic Repair Products as defined in the MSA.

Plaintiffs’ Counsel and Providio believe that receipt of certain health information maintained by Governmental Third-Party Payors is necessary to resolve the liens. The information required contains protected health information and individually identifiable health information,

some of which may be protected from disclosure pursuant to the Health Insurance Portability and Accountability Act of 1996 (42 USC §1320d *et seq.*) and the regulations promulgated thereunder (45 CFR §§ 160, 164 *et seq.*) (“HIPAA”).

The attached proposed order will allow Governmental Third-Party Payors to transmit protected health information of the MSA claimants directly to Providio to assist in the resolution of asserted liens. Governmental Third-Party Payors producing HIPAA-protected information pursuant to this Order would be deemed to fall within the safe harbor of HIPAA for court-ordered production of personal health information, 45 C.F.R. § 164.512(e)(1), and similar provisions of State law, if any. The proposed order also provides for destruction of any protected health information produced by Governmental Third-Party Payors to Providio at the conclusion of the administration of the Qualified Settlement Fund approved by this Court on September 29, 2017. [ECF No. 4752].

Plaintiffs’ Counsel believes that such a Qualified Protective Order is necessary to facilitate the resolution of Governmental Third-Party Payors liens and, therefore, respectfully requests that the Court enter the proposed Order attached hereto as Exhibit A.

Dated: October 10, 2017

Respectfully Submitted,

s/ Merritt E. Cunningham  
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**CERTIFICATE OF SERVICE**

I hereby certify that on October 10, 2017, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

s/ Merritt E. Cunningham  
Merritt E. Cunningham